

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEGAN BYFIELD,

Plaintiff,

-v.-

NEW YORK CITY DEPARTMENT OF EDUCATION
(NYCDOE),

Defendant.

22 Civ. 5869 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

The Court is in receipt of Ms. Byfield's opposition to Defendant's motion to dismiss her complaint filed April 28, 2023 (Dkt. #45), and additional document titled "Recompense" filed that same day (Dkt. #44). The Court wishes additional clarification as to the purpose of the "Recompense" document and exhibits attached thereto, given the narrow universe of documents the Court may consider on a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). See *Donoghue v. Gad*, No. 21 Civ. 7182 (KPF), 2022 WL 3156181, at *2 (S.D.N.Y. Aug. 8, 2022) ("[T]he Court may consider any written instrument attached to the Complaint as an exhibit, any statements or documents incorporated by reference in the Complaint, documents that are 'integral' to the Complaint even if they are not incorporated by reference, and matters of which judicial notice may be taken." (citing *Chambers v. Time Warner, Inc.*, 282 F.3d 147, 152-53 (2d Cir. 2002); *Goel v. Bunge, Ltd.*, 820 F.3d 554, 559 (2d Cir. 2016) (discussing materials that may properly be considered in resolving a motion brought under Fed. R. Civ. P. 12(b)(6))). If

Ms. Byfield submitted the “Recompense” documents as a supplement to her opposition brief, the Court cannot consider them at this stage. If, however, Ms. Byfield was attaching these documents as a proposed amended complaint, she is to alert the Court as to that fact on or before **May 10, 2023**.

SO ORDERED.

Dated: May 5, 2023
New York, New York



KATHERINE POLK FAILLA
United States District Judge